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September 23, 2019

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Marlene H. Dortch  
Commission Secretary  
Office of the Secretary  
Federal Communications Commission

**VIA ELECTRONIC COMMENT  
FILING SYSTEM**

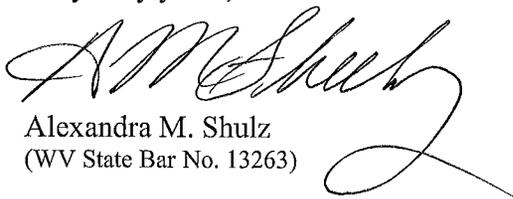
*Re: In the Matters of Establishing the Digital Opportunity Data  
Collection, and  
Modernizing the FCC Form 477 Data Program  
WC Docket No. 19-195 and WC Docket No. 11-10*

Dear Ms. Dortch:

On behalf of the West Virginia Broadband Enhancement Council, please find included herewith for filing the “*Initial Comments of the West Virginia Broadband Enhancement Council*” in the above-referenced matters.

Should you have any questions, please do not hesitate to contact us.

Very truly yours,



Alexandra M. Shulz  
(WV State Bar No. 13263)

Enclosures  
cc: Kelly Workman

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Establishing the Digital Opportunity Data Collection	)	WC Docket No. 19-195
	)	
Modernizing the FCC Form 477 Data Program	)	WC Docket No. 11-10
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**TABLE OF CONTENTS**

<b>Introduction and Summary</b> .....	2
<b>“Crowdsourcing” and Other Verification Models</b> .....	2
<b>Rules for Reporting Broadband Coverage Polygons</b> .....	4
<b>Sunset of Form 477</b> .....	5
<b>Conclusion</b> .....	6

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**COMMENTS OF  
THE WEST VIRGINIA BROADBAND ENHANCEMENT COUNCIL**

The West Virginia Broadband Enhancement Council (the “Council”) appreciates and supports the proposal of the Federal Communications Commission (“FCC” or “Commission”) to establish the Digital Opportunity Data Collection (“DODC”) as a more granular broadband deployment reporting system. The Council is committed to pursuing broadband development on behalf of the State of West Virginia. The comments provided herein represent the Council’s commitment to this important endeavor. The State of West Virginia has a unique perspective on broadband deployment in unserved and underserved areas. Our experience has shown that reliable and accurate data becomes crucial when providing internet access to disparate geographic areas. In this regard, the Council seeks partnership with broadband providers, federal agencies, state and local governments, businesses, and other stakeholders to improve broadband access across the State.

The Council is grateful for the continued support of the FCC and its many initiatives to enhance broadband service, particularly in rural locations like those found throughout the State of West Virginia. Your careful consideration of the comments provided herein are appreciated.

## **Introduction and Summary**

The Council strongly supports the establishment of the DODC because the success of broadband expansion initiatives, including the recently announced Rural Digital Opportunity Fund (“RDOF”), depends heavily upon the accuracy of the data used to determine which areas are “unserved” and therefore eligible for funds. To this end, the Council supports sunsetting Form 477 and implementing a new, more accurate polygon-based system of reporting, which will represent service at a greater granularity than census blocks. However, the Council continues to advocate for the use of address-level data, as it provides the most granular and therefore accurate depiction of broadband availability. The Council also supports the creation of an online portal for local, state, and Tribal governmental entities, as well as members of the public, to review and dispute the broadband coverage polygons filed by internet service providers (“ISPs”). As the Council has mentioned in previous comments submitted to the FCC, the geographic areas in West Virginia eligible for funding in the Connect America Fund Phase II auction were drastically reduced by inaccurate representations made during that application process. Allowing interested parties to submit data to contest representations will ensure that polygons are not mislabeled and wrongfully excluded from broadband expansion initiatives. This will also help the FCC more precisely target universal service dollars to areas lacking broadband service.

### **“Crowdsourcing” and Other Verification Models**

The Council supports the FCC’s proposal to collect and use “crowdsourced” data, meaning data collected by the Universal Service Administrative Company (“USAC”) from state governments, including state public utility commissions, and local and Tribal governmental entities, as well as members of the public, about the accuracy of the coverage polygons gathered

from fixed providers and to make such data publicly available.<sup>1</sup> The Council encourages the FCC and USAC to structure the interface of this online data collection portal to support the submission of both 1) bulk data submissions by state and local entities, and 2) individual data submissions by members of the public. The State of West Virginia is capable of sharing its speed test data in both comma-separated value (CSV) and Shapefile (SHP) format.

In order to standardize crowdsourced data collected by state, local, and Tribal entities, the Council encourages the FCC and USAC to create a common set of criteria for submitting crowdsourced data. The Council suggests requiring the following information: 1) verified location information, 2) whether service is available at this location, 3) the service providers offering service at this location, 4) average speed test results (from multiple tests taken at different hours of the day over the course of a 7-day period), 5) the contracted speed (if any) for this location, 6) latency, and 7) cost of service. Working with additional data sources, the FCC may create an availability index, using data points listed above, to determine access and timely and reasonable deployment. These additional metrics would demonstrate a more accurate picture of broadband deployment throughout the nation. This type of reporting would be more comprehensive than a determination of access and would more accurately assess the deployment of broadband in terms beyond speed alone. For example, showing an area as served, having only one provider at non-competitive rates, does not present an accurate view of availability.

Making this data—as well as the data submitted by ISPs—available to the public is crucial for policymaking and broadband advancement. The FCC should require that ISPs provide their broadband deployment data to the state(s) in which they provide broadband service when

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<sup>1</sup> Establishing the Digital Opportunity Data Collection and Modernizing the FCC Form 477 Data Program, 84 Fed. Reg. 43764, ¶ 88 (August 22, 2019).

they provide such data to the FCC. Without this data, state and local governments cannot evaluate or contest the data's accuracy. Furthermore, full data sharing will leverage the FCC's data and further its objectives by enabling states to create more effective policies and programs that increase the availability and affordability of broadband service. Moreover, it will remove any need for duplicative data collection and reduce the burden imposed on providers by enabling the submission of a single uniform data set to the FCC for all of the states in which they operate.

Unrestricted, full access to Form 477 data will also allow states to enforce their unfair or deceptive-trade-practices laws against providers that misrepresent their services. State attorneys general have significant authority to address competition issues, and this authority can complement—and often exceed—the FCC's powers.

#### **Rules for Reporting Broadband Coverage Polygons**

The Commission seeks comment on whether it should prescribe rules for reporting broadband deployment and what methodologies should be used for developing polygons.<sup>2</sup> The Council believes that broadband connection should be reported at the most granular level possible. Although polygons should provide a more accurate representation of broadband availability than the previous census block data reporting, the Council strongly encourages the FCC to focus on broadband availability at the address level. The two primary mapping layers that are most valuable to informing consumer experience and developing effective strategies for broadband expansion are 1) the ISPs current capabilities, including coverage, speed and technology; and 2) the precise locations of unserved and underserved address points. Taken together, these layers should provide the information needed to focus investments where they are needed most, providing broadband service to unserved and underserved areas. The FCC should consider sustaining this dataset over

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<sup>2</sup> *Id.* at ¶ 79.

time and should inventory address point locations that have been upgraded to meet national service level goals.

Every ISP has address level data for current and potential subscribers. Indeed, providers could not maintain their facilities and bill for their services without keeping address level records, and providers use addresses both to respond to requests for service from potential subscribers and to send them direct mail advertisements. Accordingly, providing address level data to the FCC should not pose an undue burden for providers, and there should be no claim that it is not possible to comply with this requirement.

However, if the FCC intends to use polygons to determine service availability, the geographical accuracy of those polygons is crucial. Therefore, the Council suggests requiring ISPs to validate the accuracy of its address data directly in the interface of the online data collection portal created by USAC. This verification could be done by confirming the address in a map feature of the interface, or by allowing ISPs to upload their own GIS data.

#### **Sunset of Form 477**

The Council agrees that “the fixed and mobile broadband deployment data collected on the Form 477 are not sufficient to support the specific imperative of our USF policy goals.”<sup>3</sup> The Council also agrees that until the DODC is fully operational and Form 477 can be eliminated altogether, the FCC should leave Form 477 in place—subject to several changes.<sup>4</sup> Specifically, where the FCC currently requires data at the census tract level, it should begin requiring data at the census block level. Furthermore, while Form 477 data is still being used, the FCC should

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<sup>3</sup> *Id.* at ¶ 10.

<sup>4</sup> *Id.* at ¶ 11.

accept address-level data from state and local entities and individuals that contradicts the Form 477 data to facilitate a more accurate depiction of broadband deployment.

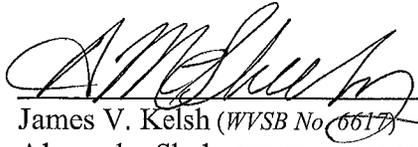
### **Conclusion**

The Council applauds the Commission for its effort to improve the quality of broadband deployment data and to further broadband connection in unserved and underserved areas across the country. The data collected under the DODC will guide policy at the federal and state levels and ensure the most efficient and precise use of funds. The Council supports the use of standardized, crowdsourced data, and asks that this data be made available to the public. The Council continues to advocate for the use of the most granular data available to determine broadband service availability, but agrees that use of polygons is a step in the right direction. The Council also suggests that address data submitted by ISPs be verified in the online data collection portal to ensure the accuracy of broadband coverage polygons. Finally, the Council agrees that Form 477 should be left in place until the DODC is fully operational and the FCC can sunset Form 477. However, Form 477 should require the most granular data available, and entities and individuals should be allowed to submit conflicting data to pinpoint inaccuracies in the Form 477 data submitted to the FCC.

The West Virginia Broadband Enhancement Council appreciates the opportunity to submit comments and looks forward to future opportunities for the Council to collaborate with the FCC and broadband service providers to improve broadband data collection.

WEST VIRGINIA BROADBAND  
ENHANCEMENT COUNCIL

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**CITATIONS IN THE COMMENTS OF  
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Report and Order and Second Further Notice of Proposed Rulemaking	<u>Page</u>
¶ 10 .....	5
¶ 11 .....	5
¶ 79 .....	4
¶ 88 .....	3